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16 E-Mail: skatzman@bmwkllaw.com17 *Attorneys for Parties-in-Interest*18 *MARY PETERSEN, INDIVIDUALLY AND AS TRUSTEE OF THE MARY PETERSEN FAMILY TRUST
DTD 8/12/98; MICHAEL PETERSEN, INDIVIDUALLY AND AS TRUSTEE OF THE MICHAEL D.
PETERSEN FAMILY TRUST DTD 8/12/98; KATHRYN PETERSEN INDIVIDUALLY AND AS TRUSTEE
OF THE KATHRYN L. PETERSEN LIVING TRUST AND THE KLP TRUST DTD 7/15/99*19
20 UNITED STATES BANKRUPTCY COURT21
22 DISTRICT OF NEVADA

23 In Re:	)	CASE Nos.:
24 USA COMMERCIAL MORTGAGE	)	BK-S-06-10725 LBR
25 COMPANY,)	BK-S-06-10726-LBR
26)	BK-S-06-10727-LBR
27 Debtor.)	BK-S-06-10728-LBR
28)	BK-S-06-10729-LBR
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29 In Re:)	JOINTLY ADMINISTERED
30)	Chapter 11 Cases
31 USA CAPITAL REALTY ADVISORS, LLC,)	Judge Linda B. Riegle
32)	
33 Debtor.	)	LIMITED OPPOSITION TO SECOND
34	)	SUPPLEMENTAL FILINGS IN SUPPORT
35	)	OF APPLICATION TO COMPROMISE
36	)	AND SETTLE CONTROVERSIES WITH
37	)	BEADLE, MCBRIDE, EVANS & REEVES,
38	)	LLP, ET AL. FILED ON BEHALF OF
39	)	GEOFFREY BERMAN AND MICHAEL
40	)	TUCKER
41)	
42 USA CAPITAL DIVERSIFIED TRUST)	Hearing Date: December 8, 2008
43 DEED FUND, LLC,)	
44)	Hearing Time: 1:30 p.m.
45 Debtor.)	
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1 In Re:)
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3 USA CAPITAL FIRST TRUST DEED FUND,))
LLC,)
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5 Debtor.)
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6 In Re:)
7)
8 USA SECURITIES, LLC,)
9)
10 Debtor.)
-----)
11 Affects:)
12)
13 All Debtors)
14 USA Commercial Mortgage Company)
15 USA Capital Realty Advisors, LLC)
16 USA Capital Diversified Trust Deed Fund,))
LLC)
17 USA Commercial Mortgage Company)
18 USA Commercial Mortgage Company)
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16 Parties-in-Interest Mary Petersen, Individually and as Trustee of the Mary Petersen Family
17 Trust DTD 8/12/98; Michael Petersen, Individually and as Trustee of the Michael D. Petersen
18 Family Trust DTD 8/12/98; and Kathryn Petersen, Individually and as Trustee of the Kathryn L.
19 Petersen Living Trust and the KLP Trust DTD 7/15/99 (collectively, the "Petersens") submit the
20 following Limited Opposition to Geoffrey Berman, Trustee ("Trustee") of the USACM Liquidating
21 Trust (the "USACM Trust") and Michael Tucker, Manager ("Manager") of the USA Capital
22 Diversified Trust Deed Fund, LLC's ("DTDF") Second Supplemental Filing in Support of
23 Application to Compromise and Settle Controversies with Beadle, McBride, Evans & Reeves,
24 LLP, et al. ("BMER") and specifically Paragraphs One and Fourteen of the proposed Findings of
25 Fact and Paragraph One of the Conclusions of Law In Support of Order Approving Settlement with
26 BMER included in the Second Supplement filed with this Court on December 4, 2008
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1 (Doc#66531). The Petersens expressly consent to submit this matter on the papers or alternatively
2 consent to a telephonic appearance by all counsel at the hearing currently scheduled for December
3 8, 2008 at 1:30 p.m. to address these focused issues.
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5 Counsel for USACM Trust and the Petersens have previously discussed the proposed
6 Findings of Fact and Conclusions of Law filed with this Court on November 24, 2008. As a result,
7 USACM filed a revised findings of fact and conclusions of law with this Court on December 4,
8 2008. The Petersens' remaining objections to the supplemental filings are set forth below.

9 Paragraph One of the Proposed Findings of Fact and Paragraph One of the Conclusion of
10 Law state as follows, respectively:

11 1. Notice of the Motion ("Notice") was properly served on all creditors of the above-
12 titled estates, including to persons and entities who might reasonably be anticipated to have claims
13 for indemnification and/or contribution.
14

15 1. Notice has been given to all parties to the above-titled estates, including to persons
16 and entities who might reasonably be anticipated to have claims for indemnification and/or
17 contribution.

18 Objection: This proposed finding is vague and not consistent with the Court's ruling. The
19 Court did not find that notice was made to all persons who have such claims or who might
20 reasonably be anticipated to have claims for indemnification and/or contribution. In fact, the Court
21 opined, "The cases require me to look and see about whether or not, for example, Beadle is paying
22 more than its aliquot share in the universe. I don't even know what the other claims are out there
23 That is weighing the various levels of contribution. I don't even know who the other people
24 are, and I don't think it's appropriate, and I sincerely doubt that I have the ability to do this by
25 motion practice." See Reporter's Transcript of Proceedings for 11/18/08 at 35, 53.
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1 As a result, these proposed Findings of Fact and Conclusions of Law should be stricken.
2 Any findings or conclusions of law related to Notice should be consistent with Rule 2002 and 9019
3 and therefore state "Notice of the Motion ("Notice") was properly served on all creditors of the
4 above-titled estates."

5 Paragraph Fourteen of the Proposed Findings of Fact states as follows:
6

7 14. There was no collusion, fraud, or tortious conduct aimed to injure the interests of
8 any non-settling defendants in connection with the negotiation and execution of the Settlement
9 Agreement.

10 Objection: This proposed finding is not consistent with the Court's previous findings nor
11 consistent with the intent and proposed purpose of such a finding. The purported purpose of it is to
12 address Plaintiff's conduct during the settlement process. As a result, if such a finding is
13 necessary, it should be consistent with such spirit and purpose.

14 As a result, the proposed finding should be stricken. If this Court deems such a finding
15 necessary, then it should be consistent with the spirit and intent for such a finding and state, "There
16 was no collusion, fraud, or tortious conduct in connection with the negotiation and execution of the
17 Settlement Agreement."

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1 Wherefore, premises considered, the Petersens respectfully request this Court to require
2 USAMC Trust and DTDF to make the requested changes to the Supplemental Proposed Findings
3 of Fact and Conclusions of Law.

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5 DATED: December 5, 2008

O'REILLY LAW GROUP, LLC

6
7 By: /s/ Timothy R. O'Reilly

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15 Attorneys for Parties-in-Fact
16 Mary Petersen, Individually and as Trustee of the
17 Mary Petersen Family Trust DTD 8/12/98;
18 Michael Petersen, Individually and as Trustee of
19 the Michael D. Petersen Family Trust DTD
20 8/12/98; Kathryn Petersen, Individually and as
21 Trustee of the Kathryn L. Petersen Living Trust
22 and the KLP Trust DTD 7/15/99

23
24 DATED: December 5, 2008

25 BIENERT, MILLER, WEITZEL & KATZMAN

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27 By: /s/ Steven J. Katzman

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36 Attorneys for Parties-in-Interest,
37 Mary Petersen, Individually and as Trustee of the Mary
38 Petersen Family Trust DTD 8/12/98; Michael Petersen,
39 Individually and as Trustee of the Michael D. Petersen
40 Family Trust DTD 8/12/98; Kathryn Petersen
41 Individually and as Trustee of the Kathryn L. Petersen
42 Living Trust and the KLP Trust DTD 7/15/99

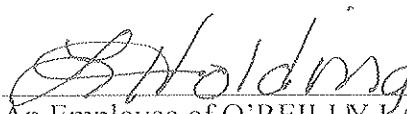
1 PROOF OF SERVICE
2

3 I HEREBY CERTIFY, pursuant to LR 5-1, that on this 5th day of December 2008, I served
4 the above and foregoing **LIMITED OPPOSITION TO SECOND SUPPLEMENTAL**
5 **FILINGS IN SUPPORT OF APPLICATION TO COMPROMISE AND SETTLE**
6 **CONTROVERSIES WITH BEADLE, MCBRIDE, EVANS & REEVES, LLP, ET AL.**
7 **FILED ON BEHALF OF GEOFFREY BERMAN AND MICHAEL TUCKER** in accordance
8 with Fed. R. Civ. P. 5(b)(2)(B) by placing a copy of same in a sealed envelope, with postage fully
9 prepaid thereon, and sending via U.S. mail to the following:

10 Eric D. Madden, Esq.
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16 DIVERSIFIED TRUST DEED FUND, LLC

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23 DIVERSIFIED TRUST DEED FUND, LLC

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28 Co-Counsel for Defendants MARY PETERSEN, individually and as Trustee of the Mary Petersen
Family Trust dtd 8/12/98; MICHAEL PETERSEN, individually and as Trustee of the Michael D.
Petersen Family Trust dtd 8/12/98; and KATHRYN PETERSEN, individually and as Trustee of the
Kathryn L. Petersen Living Trust and the KLP Trust dtd 7/15/99

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31 An Employee of O'REILLY LAW GROUP, LLC